

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HJR 381 Property Assessment; Homestead Value Decline; Nonhomestead Increase Limitation Reduction; Additional Homestead Exemption

**SPONSOR(S):** Community & Military Affairs Subcommittee, Finance & Tax Committee, Dorworth and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SJR 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	19 Y, 3 N, As CS	Aldridge	Langston
2) Community & Military Affairs Subcommittee	12 Y, 3 N, As CS	Nelson	Hoagland
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

This joint resolution proposes an amendment to ss.4 and 6, Art.VII of the State Constitution, to reduce from 10 percent to three percent the limitation on annual ad valorem assessment increases applicable to non-homestead property, and to create an additional homestead exemption for first-time homesteaders.

The first-time homesteader exemption will be available to every person who has not received a homestead exemption in the past three years, and will apply to all property taxes other than school taxes. The initial exemption is equal to 50 percent of the just value (i.e., market value) of the homestead property. The amount of the exemption cannot exceed \$200,000, and will diminish to zero in five years or less. The exemption value is reduced each year by the greater of 20 percent of the initial exemption or the difference between just value and assessed value of the property as determined under Florida's "Save Our Homes" provisions.

The CS/CS/HJR 381 revises s. 4 of Art. VII to prevent "recapture," i.e., provides that an assessment may not increase if the just value of the property is less than the just value of the property on the preceding January 1, except for changes, additions, reductions or improvements to homestead property. Further, the joint resolution adds contingency language which provides the additional homestead exemption will apply to property purchased on or after January 1, 2011, if the constitutional amendment is approved at a special election held on the date of the 2012 presidential primary, or on or after January 1, 2012, if approved at the 2012 general election.

The Revenue Estimating Conference (REC) has not met to address the estimated fiscal impact of the bill as amended, if approved by the voters. Prior figures, based on the original joint resolution, estimated a reduction in local government revenues of \$231.6 million in FY 2012-13, increasing to \$1.27 billion in FY 2015-16. The bill now includes language which is expected to increase reductions to local governments and result in impacts to school revenues.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature to be placed on the November 2012 ballot. However, see III. COMMENTS of this analysis for discussion of the need for an earlier election date for the January 1, 2012, effective date of the joint resolution to impact 2012 property taxes.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Just Value

Section 4, Art. VII of the State Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Under Florida law, “just valuation” is synonymous with “fair market value,” and is defined as what a willing buyer would pay a willing seller for property in an arm’s length transaction.<sup>1</sup>

##### Assessed Value

The State Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>2</sup> Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of its character or use.<sup>3</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>4</sup> Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value be or totally exempted from taxation.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.<sup>7</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>8</sup> Certain working waterfront property is assessed based upon the property’s current use.<sup>9</sup>

##### Save Our Homes

The “Save Our Homes” provision in s. 4, Art. VII of the State Constitution, limits the amount a homestead’s assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the consumer price index.<sup>10</sup> Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to the new homestead.<sup>11</sup>

##### Additional Assessment Limitations

Sections 4(g) and (h), Art. VII of the State Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units **must** be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature **may** provide that such property is

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<sup>1</sup> Section 193.011, F.S. *See also, Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

<sup>2</sup> The constitutional provisions in s. 4, Art. VII of the State Constitution, are implemented in Part II of ch. 193, F.S.

<sup>3</sup> Section 4(a), Art. VII of the State Constitution.

<sup>4</sup> Section 4(b), Art. VII of the State Constitution.

<sup>5</sup> Section 4(c), Art. VII of the State Constitution.

<sup>6</sup> Section 4(e), Art. VII of the State Constitution.

<sup>7</sup> Section 4(f), Art. VII of the State Constitution.

<sup>8</sup> Section 4(i), Art. VII of the State Constitution.

<sup>9</sup> Section 4(j), Art. VII of the State Constitution.

<sup>10</sup> Section 4(d), Art. VII of the State Constitution.

<sup>11</sup> Section 4(d), Art. VII of the State Constitution.

assessed at just value after a change of ownership or control and **must** provide for reassessment following a qualifying improvement, as defined by general law. Section 27, Art. XII of the State Constitution, provides that the amendments creating a limitation on annual assessment increases in subsections (f) and (g) are repealed effective January 1, 2019, and that the Legislature must propose an amendment abrogating the repeal, which shall be submitted to the voters for approval or rejection on the general election ballot for 2018.

### Homestead Exemption

Section 6, Art. VII of the State Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to a homesteads' assessed value between \$50,000 and \$75,000, excluding school district levies.

### Other Exemptions

Section 3, Art. VII of the State Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.<sup>12</sup> Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.<sup>13</sup> A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.<sup>14</sup> A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.<sup>15</sup> Tangible personal property is exempt up to \$25,000 of its assessed value.<sup>16</sup> There is an exemption for real property dedicated in perpetuity for conservation purposes.<sup>17</sup> In November 2010, voters approved a constitutional amendment that adds an additional exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.<sup>18</sup>

### Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

## **Effect of Proposed Changes**

### Non-Homestead Assessment Limitation

The joint resolution proposes to amend paragraph 1 of subsections (g) and (h) in s. 4, Art. VII of the State Constitution, to reduce the annual assessment limitation on non-homestead property from 10 percent to three percent.

### Additional Homestead Exemption for First Time Homesteaders

The joint resolution also proposes to create subsection (f) in s. 6, Art. VII of the State Constitution. This amendment allows individuals who are entitled to a homestead exemption under s. 6(a), Art. VII of the State Constitution and have not received a homestead exemption in the previous three years to receive

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<sup>12</sup> Section 3(a), Art. VII of the State Constitution.

<sup>13</sup> Section 3(b), Art. VII of the State Constitution.

<sup>14</sup> Section 3(c), Art. VII of the State Constitution.

<sup>15</sup> Section 3(d), Art. VII of the State Constitution.

<sup>16</sup> Section 3(e), Art. VII of the State Constitution.

<sup>17</sup> Section 3(f), Art. VII of the State Constitution.

<sup>18</sup> Section 3(g), Art. VII of the State Constitution.

an additional homestead exemption equal to 50 percent of the just value of the homestead property. The additional exemption will apply to all property taxes other than school district taxes. The amount of the exemption cannot exceed \$200,000. This additional exemption is reduced each succeeding year by the greater of 20 percent of the initial exemption or the or the difference between just value and assessed value of the property as determined under Florida's "Save Our Homes" provisions.

#### Non-substantive Revisions

The joint resolution also makes non-substantive revisions to s. 4, Art. VII of the State Constitution.

#### Strike-All Amendment

The strike-all amendment revises the language of the joint resolution to additionally:

- amend s. 4 of Art. VII to prevent "recapture," i.e., provides that an assessment may not increase if the just value of the property is less than the just value of the property on the preceding January 1, except for changes, additions, reductions or improvements to homestead property.
- add contingency language which provides the additional homestead exemption will apply to property purchased on or after January 1, 2011, if the constitutional amendment is approved at a special election held on the date of the 2012 presidential primary, or on or after January 1, 2012, if approved at the 2012 general election.
- remove language which created ss. 32 and 33 of Art. XII. Section 32 provided that the reduction on the limit on the maximum annual increase in the assessed value of non-homestead property from 10 percent to three percent takes effect on January 1, 2012. Section 33 related to the effective date of the additional homestead exemption.
- amend s. 27 of Art. XII of the State Constitution. This language removes language which would have repealed subsections (f) and (g) of Section 4 of Art. VII effective January 1, 2019.
- remove the proposed ballot language.

#### B. SECTION DIRECTORY:

Not applicable to joint resolutions.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

Section 5(d), Art. XI of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year. The department estimated the full publication costs for advertising the joint resolution, as amended, to be \$306,107.76.<sup>19</sup> Whether this sum is sufficient will depend on the final wording of the joint resolution and the language that is to be placed on the ballot.<sup>20</sup>

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<sup>19</sup> Department of State, *House Joint Resolution 381 (2011) Fiscal Analysis* (March 17, 2011).

<sup>20</sup> Department of State, *Senate Joint Resolution 1564 (2011) Fiscal Analysis* (March 9, 2011).

The department normally is the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.<sup>21</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference (REC) has not met to address the estimated fiscal impact of the bill as amended, if approved by the voters. Prior figures based on the original joint resolution, estimated a reduction in local government revenues of \$231.6 million in FY 2012-13, increasing to \$1.27 billion in FY 2015-16. The bill as amended is expected to increase reductions to local governments and result in impacts to school revenues as well.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Owners of existing non-homestead residential rental and commercial real property may experience property tax savings, and will not see their taxes increase significantly in a single year due to the change in the assessment increase limitation from 10 percent to three percent.

Purchasers of residential properties who have not received a homestead exemption in the past three years will be eligible for an additional homestead exemption for a period of five years.

To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses.

New properties or properties that have changed ownership or undergone significant improvements will be assessed at just value, and pay higher taxes than comparable properties that have not changed ownership or undergone significant improvements.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

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<sup>21</sup> Department of State, *House Joint Resolution 439 (2011) Fiscal Analysis* (February 3, 2011).

Several provisions were inadvertently removed in the strike-all amendment adopted on March 21, 2011, which are necessary to the bill and should be corrected. Provisions regarding the effective date and the ballot language should be restored.

Generally, proposed constitutional amendments are voted on during a general election, unless a special election is scheduled pursuant to law enacted by a three-fourths vote of the membership of each house of the legislature.<sup>22</sup> The next general election will be held in November of 2012. However, voter approval of the amendment proposed by this joint resolution in November 2012 would occur too late for the changes proposed by the joint resolution to be effective January 1, 2012, and to affect taxes levied in 2012.<sup>23</sup> Therefore, for the amendment proposed by the joint resolution to be effective January 1, 2012, voter approval would be needed in early 2012.

HB 1053 provides for this measure to be submitted to the electors of this state in a special election to be held on the date of the presidential preference primary. The bill must be passed by the majorities noted above.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 24, 2011, the Finance and Tax Committee adopted a strike-all amendment removing the "Save Our Homes" recapture provisions, and changing the effective date from January 1, 2013, to January 1, 2012. The Committee Substitute does the following:

- Reduces from 10 percent to three percent the limitation on annual assessment increases applicable to non-homestead property.
- Creates an additional homestead exemption for first-time homesteaders.

The analysis has been updated to reflect the Committee Substitute.

On March 21, 2011, the Community & Military Affairs Subcommittee adopted a strike-all amendment and a technical amendment to the amendment. The strike-all amendment:

- Amends s. 4 of Art. VII to prevent "recapture," i.e., provides that an assessment may not increase if the just value of the property is less than the just value of the property on the preceding January 1, except for changes, additions, reductions or improvements to homestead property.
- Adds contingency language which provides the additional homestead exemption will apply to property purchased on or after January 1, 2011, if the constitutional amendment is approved at a special election held on the date of the 2012 presidential primary, or on or after January 1, 2012, if approved at the 2012 general election.
- Removes language which created ss. 32 and 33 of Art. XII. Section 32 provided that the reduction on the limit on the maximum annual increase in the assessed value of non-homestead property from 10 percent to three percent takes effect on January 1, 2012. Section 33 related to the effective date of the additional homestead exemption.
- Amends s. 27 of Art. XII of the State Constitution. This language removes language which would have repealed subsections (f) and (g) of Section 4 of Art. VII effective January 1, 2019.
- Removes the proposed ballot language.

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<sup>22</sup> Section 5(a), Art. XI of the State Constitution.

<sup>23</sup> Tax rolls would have been finalized, local government budgets would have been set, tax notices and bills would have been mailed, etc.